

REMARKS

Reconsideration is requested.

The Examiner's comment regarding previous requests for a corrected Filing Receipt on page 2 of the Office Action dated June 23, 2010 is noted.

A Corrected Filing Receipt is requested which accurately reflects the status of the parent application no. 07/920,266 as a 371 U.S. National Phase of International Application No. PCT/EP91/024089 filed December 13, 1991.

The applicants have filed similar requests on July 2, 2004, April 27, 2005, May 9, 2005, February 20, 2007, May 27, 2009¹. The undersigned has received from the Patent Office a Notice Regarding Benefit/Priority Claim(s) dated September 27, 2004 and a Response to Request for Corrected Filing Receipt dated June 3, 2009 indicating that the prior filed Non-provisional application no. 07/920,266 "has been improperly indicated as a National Stage (35 U.S.C. 371) Application". The latest "Response" states the following:

"The Office's records show that the prior-filed application is an application filed under 35 U.S.C. 111(a). The Office has entered the benefit claim to the prior-filed application as a benefit claim to an application filed under 35 U.S.C. 111(a). Any request for a corrected filing receipt to include the indication that the prior-filed application is a national stage

¹ The Requests filed July 2, 2004, April 27, 2005 and May 9, 2005 identified international application no. PCT/EP91/024089 as having been filed December 31, 1991, as identified in the original Patent Office Filing Receipt.

International Application no. PCT/EP91/024089 was filed December 13, 1991, as noted in the applicants Preliminary Amendment filed April 13, 2004, the applicants Declaration filed August 18, 2004, the applicants Renewed Request filed February 20, 2007, the applicants Request for Correction of Corrected Filing Receipt filed May 27, 2009, the Supplemental Application Data Sheet filed May 27, 2009, the Notification of Acceptance mailed in application no. 07/920,266 reproduced below, and the attached Missing Requirements Under 35 U.S.C. 371 dated August 28, 1992 mailed in application no. 07/920,266.

The first paragraph of the specification has been corrected above in this regard. No new matter has been added.

application will not be granted unless the applicant supplies evidence that the prior application was in fact a national stage application. Accordingly, applicant should not submit such request without such evidence. Applicant should submit an amendment (or an applicants data sheet (ADS) if the benefit claim was submitted in an ADS) to delete the indication that the prior-filed application is a national stage application."

The "evidence" described in the "Response" dated June 3, 2009 and quoted above was supplied however in at least the applicants Request of February 20, 2007 and Response of April 27, 2005. Specifically, the applicants previously supplied a copy of the Notice of Acceptance dated January 6, 1993 from Application No. 07/920,286 confirming that the application no. 07/920,286 is a U.S. national phase of PCT/EP91/02409. See page 5 of the Renewed Request filed February 20, 2007 and page 5 of the applicants Request for Correction of Filing Receipt filed by facsimile on April 27, 2005. The following is a further reproduction of the Notification of Acceptance confirming the Patent Office treatment of application no. 07/920,286 as a U.S. national phase of PCT/EP91/02409:

DeLeys et al
Appl. No. 10/822,871
Attny. Ref.: 2551-141
Amendment
September 23, 2010

NIXON & VANDERHYE PC3 Fax: 703-816-4100

Apr 27 2005 14:01

P. 05

COPY

WILLIAM W. BECKETT BANNER, BIRCH, MC KIE & BECKETT 1001 G STREET, N.W., ELEVENTH FLOOR WASHINGTON, D.C. 20001-4597 JAN 08 1993		UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 Date of Mailing 6 JAN 1993 File Reference 137.040302	
IDENTIFICATION OF THE INTERNATIONAL APPLICATION			
International application Number PCT/EP91/02409	International filing date 13 DEC 1991	Priority date claimed 14 DEC 1990	
Applicant for DO/EO/US DELEYS, ROBERT J. POLLET, DIRK MAERTENS, GEERT AND VAN HEINVERSTRAETEN			
NOTIFICATION			
The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a <input checked="" type="checkbox"/> Designated Office, <input type="checkbox"/> Elected Office, has determined that the above identified international application has met the requirements of 35 U.S.C. 371 and 37 CFR <input checked="" type="checkbox"/> 1.494, <input type="checkbox"/> 1.495 and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.			
The United States Serial Number assigned to the application and the relevant dates are: W/920286 14 OCT 1992 14 OCT 1992			
U.S. NATIONAL SERIAL NO. 35 U.S.C. 102(e) DATE DATE OF RECEIPT 35 U.S.C. 371 REQUIREMENTS			
<input checked="" type="checkbox"/> A request for immediate examination under 35 U.S.C. 371 (f) was received on 14 OCT 1992 and the application will be examined in turn.			
<input type="checkbox"/> No request for immediate examination under 35 U.S.C. 371 (f) was received. The application will not be processed or examined before the time limit set forth in either <input type="checkbox"/> PCT Article 23 (Chapter I of the PCT), or <input type="checkbox"/> PCT Article 40 (Chapter II of the PCT) whichever is applicable.			
UNITED STATES DESIGNATED/ELECTED OFFICE			
ADDRESS ONLY: COMMISSIONER OF PATENTS AND TRADEMARKS Box PCT, Attn. DO/EO/US Washington, D.C. 20231		AUTHORIZED OFFICER <i>Monica J. Doney</i>	

Form PCT/DO/EO/903 (U.S. Version) (April 1987)

U.S. DEPARTMENT OF COMMERCE - PTO

The applicants Preliminary Amendment of April 13, 2004 identified application no. 07/920,286 as a U.S. national phase of PCT/EP91/02409.

The applicants note that a BIB DATA SHEET contained in the PTO IFW indexed at May 2, 2007 describes application no. 07/920,286 as a 371 U.S. national phase of PCT/EP91/02409, and does not list application no. PCT/EP91/02409 as a "Foreign Applications". A subsequent BIB DATA SHEET indexed on October 6, 2008 in the PTO IFW fails to make any reference to the patent International Application. A BIB DATA SHEET indexed on May 21, 2009 in the PTO IFW again refers to the parent PCT application as a "FOREIGN APPLICATIONS".

The present application is based on and claims benefit of U.S. Patent No. 6,872,520. As shown below, the first page of U.S. Patent No. 6,872,520 identifies U.S. application no. 07/920,286 as being filed "as application No. PCT/EP91/02409".

(12) United States Patent DeLeys et al.		(10) Patent No.: US 6,872,520 B2
		(45) Date of Patent: Mar. 29, 2005
(54)	SYNTHETIC ANTIGENS FOR THE DETECTION OF ANTIBODIES TO HEPATITIS C VIRUS	
(75)	Inventors: Robert J. DeLeys, Three Bridges, NJ (US); Dirk Podiet, Schilde (HE); Geert Maertens, Brugge (BE); Hugo Van Heuverswijn, Laarne (BE)	
(73)	Assignee: Innogenetics N.V., Ghent (BE)	
(*)	Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(h) by 158 days.	
FOREIGN PATENT DOCUMENTS		
	EP	0 318 216 5/1989
	EP	885237 9/1991
	EP	0 442 394 8/1991
	EP	0 445 422 9/1991
	EP	0 448 891 9/1991
	EP	0 450 931 10/1991
	EP	0 451 891 10/1991
	EP	0 468 527 1/1992
	EP	0 471 356 2/1992
	EP	0 484 787 5/1992
	WO	WO 89/04669 6/1989
	WO	WO 92/01714 2/1992
OTHER PUBLICATIONS		
(21)	Appl. No.: 10/044,995	
(22)	Filed: Jan. 15, 2002	
(65)	Prior Publication Data US 2003/004968 A1 Mar. 13, 2003	
Related U.S. Application Data		
(62)	Division of application No. 09/941,611, filed on Aug. 30, 2001, now Pat. No. 6,576,417, which is a division of application No. 09/035,265, filed on Mar. 23, 1999, now Pat. No. 6,267,761, which is a continuation of application No. 08/381,871, filed on Feb. 21, 1995, now Pat. No. 5,922,552, which is a continuation of application No. 07/920,286, filed as application No. PCT/EP93/02409 on Dec. 31, 1991, now abandoned.	
(30)	Foreign Application Priority Data Dec. 14, 1990 (EP) 90/24241	

The present application is based on and claims benefit of U.S. Patent No. 6,576,417 . As shown below, the first page of U.S. Patent No. 6,576,417 identifies U.S. application no. 07/920,286 as being filed "as application No. PCT/EP91/02409".

(12) United States Patent		(10) Patent No.:	US 6,576,417 B2
Deleys et al.		(45) Date of Patent:	Jun. 10, 2003

(54) SYNTHETIC ANTIGENS FOR THE DETECTION OF ANTIBODIES TO HEPATITIS C VIRUS	FOREIGN PATENT DOCUMENTS		
	EP	0 318 216	5/1989
	EP	388232	9/1990
(75) Inventors: Robert J. Deleys, Three Bridges, NJ (US); Dirk Pollet, Schilde (BE); Geert Maertens, Brugge (BE); Hugo Van Heuverswijn, Laarne (BE)	EP	0 342 394	8/1991
	EP	0 345 423	9/1991
	EP	0 345 301	9/1991
	EP	0 350 931	10/1991
	EP	0 451 891	10/1991
(75) Assignee: Innogenetics, N.V., Ghent (BE)	EP	0 468 527	1/1992
	EP	0 371 356	2/1992
	EP	0 381 787	5/1992
(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.	WO	WO 89/04669	6/1989
	WO	WO 92/01714	2/1992
OTHER PUBLICATIONS			
(21) Appl. No.: 09/941,611	Choo, Q.L., et al, <i>Science</i> , 244 : 359-362 (1989) "Isolation of a cDNA Clone Derived from a Blood-Borne Non-A, Non-B Viral Hepatitis Genome".		
(22) Filed: Aug. 30, 2001	Kuo, G., et al, <i>Science</i> , 244 : 362-364 (1989) "An Assay for Circulating Antibodies to a Major Etiologic Virus of Human Non-A, Non-B Hepatitis".		
(65) Priority Publication Data	Okamoto, H., et al, <i>Japan J. Exp. Med.</i> , 60:3 167-177 (1990) "The 5'-Terminal Sequence of the Hepatitis C Virus Genome".		
US 2002/0106040 A1 Aug. 8, 2002	Okamoto, H., et al, <i>Japan J. Exp. Med.</i> , 60:4 223-233 (1990) "Enzyme-Linked Immunosorbent Assay for Antibodies against the Capsid Protein of Hepatitis C Virus with a Synthetic Oligopeptide".		
Related U.S. Application Data	Viancks, R., <i>Eur. J. Clin. Microbiol. Infect. Dis.</i> , 9(9), 1990, "Evaluation of a line immunoassay . . .", 674-676.		
(62) Division of application No. 08/275,265, filed on Mar. 23, 1999, now Pat. No. 6,287,761, which is a continuation of application No. 08/391,671, filed on Feb. 21, 1995, now Pat. No. 5,922,532, which is a continuation of application No. 07/920,286, filed as application No. PCT/EP91/02909 on Dec. 31, 2001, now abandoned.	Shimomishi Y., Ed. Peptide Chemistry, 1990 "Proceedings of the 26 th Symposium on Peptide Chemistry", Osaka, Oct.		
(50) Foreign Application Priority Data			
Dec. 14, 1990 (1-P)	90124241		

The present application is based on and claims benefit of U.S. Patent No. 6,287,761. As shown below, the first page of U.S. Patent No. 6,287,761 identifies U.S. application no. 07/920,286 as being filed "as application No. PCT/EP91/02909".

UNITED STATES PATENT AND TRADEMARK OFFICE	
US06287761B1	
(12) United States Patent Deleys et al.	(10) Patent No.: US 6,287,761 B1 (45) Date of Patent: *Sep. 11, 2001
<p>(54) SYNTHETIC ANTIGENS FOR THE DETECTION OF ANTIBODIES TO HEPATITIS C VIRUS</p> <p>(75) Inventors: Robert J. Deleys, Three Bridges, NJ (US); Dirk Pollet, Schilde (BE); Geert Maertens, Bruges (BE); Hugo Van Heuverswijn, Laarne (BE)</p> <p>(73) Assignee: Innogenetics N.V., Ghent (BE)</p> <p>(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.</p> <p>This patent is subject to a terminal disclaimer.</p> <p>(21) Appl. No.: 09/275,265</p> <p>(22) Filed: Mar. 23, 1999</p> <p style="text-align: center;">Related U.S. Application Data</p> <p>(62) Continuation of application No. 08/991,671, filed on Feb. 21, 1995, now Pat. No. 5,922,532, which is a continuation of application No. 07/921,286, filed as application No. PCT/EP91/02409 on Dec. 31, 1991, now abandoned.</p> <p>(30) Foreign Application Priority Data</p> <p>Dec. 14, 1990 (EP) 90/24241</p> <p>(51) Int. Cl.⁷ G01N 33/576</p> <p>(52) U.S. Cl. 435/5; 436/518; 436/820;</p>	

OTHER PUBLICATIONS

Vianes, R., *Eur J Clin Microbiol. Infect. Dis.*, 9(9), 1990 "Evaluation of a line immunoassay for the differential detection of antibodies of human immunodeficiency virus", 674-676.

Shimomishi Y., Ed. *Peptide Chemistry*, 1990 "Proceedings of the 26th Symposium on Peptide Chemistry", Osaka, Oct. 25-27, 1990.

Mankata et al., "Epitope-Mapping of Hepatitis C Virus Constituting Protein" pp. 211-214, Protein Research Foundation, Osaka, 1991.

Choo, Q.L., et al., *Science* 244 : 359-362 (1989) "Isolation of a cDNA Clone Derived from a Blood-Borne Non-A, Non-B Viral Hepatitis Genome".

Kuo, G., et al., *Science*, 244 : 362-364 (1989) "An Assay for Circulating Antibodies to a Major Etiologic Virus of Human Non-A, Non-B Hepatitis".

Okamoto, H., et al., *Japan J. Exp. Med.*, 60:3 107-177 (1990) "The 5-Terminal Sequence of the Hepatitis C Virus Genome".

Okamoto, H., et al., *Japan J. Exp. Med.*, 60:4 223-233 (1990) "Enzyme-Linked Immunosorbent Assay for Antibodies against the Capsid Protein of Hepatitis C Virus with

The present application is based on and claims benefit of U.S. Patent No. 5,922,532. As shown below, the first page of U.S. Patent No. 5,922,532 identifies U.S. application no. 07/920,286 as being filed "as application No. PCT/EP91/02409".

United States Patent [19]		[11] Patent Number:	5,922,532
Deleys et al.		[45] Date of Patent:	Jul. 13, 1999
[54]	SYNTHETIC ANTIGENS FOR THE DETECTION OF ANTIBODIES TO HEPATITIS C VIRUS		
[75] Inventors:	Robert J. Deleys, Grimbergen; Dirk Pollet, Winggem; Geert Maertens, Brugge; Hugo Van Heuverswijn, Ixorne, all of Belgium		
[73] Assignee:	Imragenetics, N.V., Ghent, Belgium		
[21] Appl. No.:	08/391,671		
[22] Filed:	Feb. 21, 1995		
Related U.S. Application Data			
[63]	Continuation of application No. 07/920,786, filed as application No. PCT/EP91A(2489), Dec. 13, 1991, abandoned.		
[30]	Foreign Application Priority Data		
Dec. 14, 1990	[EP]	European Pat. Off.	90/124241

0 468 527 1/1992 European Pat. Off. .
 0 471 356 2/1992 European Pat. Off. .
 0 484 787 5/1992 European Pat. Off. .
 WO 8904669 6/1989 WIPO .
 WO 92/01714 2/1992 WIPO .

OTHER PUBLICATIONS

Vrancks, R., Evaluation of a line Immunoassay for the differential detection of antibodies to human immunodeficiency virus. *Eur. J. Clin. Microbiol. Infect. Dis.* 9(9), 1990.

Shimonishi, Y., Ed., *Peptide Chemistry 1990, Proceedings of the 28th Symposium on Peptide Chemistry*, Osaka, Oct. 25-27, 1990. Munekata et al., "Epitope-Mapping of Hepatitis C Virus Constituting Protein," pp. 211-214, Protein Research Foundation, Osaka, 1991.

Choo, Q. L., et al, *Science* 244:359-362 (1989) "Isolation of a cDNA Clone Derived from a Blood-Borne Non-A, Non-B Viral Hepatitis Genome".

Kao, G., et al, *SCIENCE*, 244:362-364 (1989) "An Assay for Circulating Antibodies to a Major Etiologic Virus of Human Non-A, Non-B Hepatitis".

Gibson, M., et al, *Journal of Gen. Med. B.* 69:3-163-177

A copy of the history of application no. 07/920,286 obtained from the Patent Office is attached as an "NPL" document. The following evidence that application no. 07/920,286 is a 371 U.S. National Phase of PCT/EP91/02489 is contained in the attached file history and reproduced below:

The file jacket indicating along the top "FILED UNDER 35 USC 371"

DeLeys et al
 Appl. No. 10/822,871
 Attny. Ref.: 2551-141
 Amendment
 September 23, 2010

FILED UNDER 35 USC 371		Staple Here	
620286		PATENT NUMBER	
SERIAL NUMBER 07/890,286	FILING DATE 10/14/92	CLASS 435	SUBCLASS 5
GROUP ART UNIT 1000		EXAMINER J. T. ...	
FOREIGN PATENTS, PRIOR ART, CITATIONS, REFERENCES, ETC. (Text area for prior art and references)			
ABSTRACT (Text area for abstract)			
CLAIMS (Text area for claims)			
DESCRIPTION (Text area for description)			
DRAWINGS (Text area for drawings)			
OTHER INFORMATION (Text area for other information)			
FOREIGN PRIORITY CLAIMS (Text area for foreign priority claims)			
PARTS OF APPLICATION (Text area for parts of application)			
NOTICE OF ALLOWANCE MAILED (Text area for notice of allowance mailed)			
ISSUE FEE (Text area for issue fee)			
ISSUE CLASSIFICATION (Text area for issue classification)			
WARNING: The information disclosed herein may be restricted. Unauthorized disclosure may be prohibited by the United States Code Title 35, Sections 122, 181 and 308. Possession outside the U.S. Patent & Trademark Office is restricted to authorized employees and contractors only.			

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The Notice of Missing Requirements dated August 28, 1992 which set a due date for filing the inventors' Declaration by October 14, 1992 (i.e., 22 months from the earliest claimed priority date):

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Appl. No. 10/822,871
Attny. Ref.: 2551-141
Amendment
September 23, 2010

U.S. DEPARTMENT OF COMMERCE		FILE NO.	INVENTOR'S DOCKET NUMBER		
TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DOE/OUS)		37-042502	#4		
INTERNATIONAL APPLICATION NO. PCT/US91/02429	INTERNATIONAL FILING DATE 13 December 1991 (13.12.91)	PRIORITY DATE CLAIMED 18 December 1990 (18.12.90)			
TITLE OF INVENTION SYNTHETIC ANTIGENS FOR THE DETECTION OF ANTIBODIES TO HEPATITIS C VIRUS					
APPLICANT'S NAME (DOE/OUS) DOLENS, Robert J.; PULETT, Dick; MORGENSEN, Gert; and					
Applicant herewith advises the United States Designated/Elected Office (DOE/OUS) the following facts under 35 U.S.C. 371:					
1. <input type="checkbox"/> This request is to immediately begin national examination procedures (35 U.S.C. 37102)					
2. <input checked="" type="checkbox"/> The U.S. National Fee (35 U.S.C. 371(c)(1)) and other fees as follows:					
CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
TOTAL CLAIMS		-30 =		x \$12.00	\$
INDEPENDENT CLAIMS		-3 =		x \$56.00	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)					+ \$120.00
BASIC NATIONAL FEE (37 CFR 1.492(a)(1)-(4)).					
<input type="checkbox"/> International preliminary examination fee paid to USPTO (37 CFR 1.462) \$30					
<input type="checkbox"/> No international preliminary examination fee paid to USPTO (37 CFR 1.462) but international search fee paid to USPTO (37 CFR 1.445 (a)(2)) \$370					
<input type="checkbox"/> Neither international preliminary examination fee (37 CFR 1.462) nor international search fee (37 CFR 1.445 (a)(2)) paid to USPTO \$500					
<input type="checkbox"/> International preliminary examination fee paid to USPTO (37 CFR 1.462) and all claims satisfied provisions of PCT Article 33(2) to (4) \$500					
Surcharge of \$120, for furnishing the National fee or oath or declaration later than 30 mos. from the earliest claimed priority date (37 CFR 1.492(e)). \$ 120.00					
TOTAL OF ABOVE CALCULATIONS x 130.00					
Reduction by 1/2 for filing by small entity, if applicable. Affidavit must be filed also. (Note 37 CFR 1.9, 1.27, 1.28) \$ 65.00					
SUBTOTAL + 65.00					
Processing fee of \$30, for furnishing the English Translation later than 30 mos. from the earliest claimed priority date (37 CFR 1.492(f)).					
TOTAL NATIONAL FEE \$ 65.00					
Fee for recording the enclosed assignment (37 CFR 1.21(h)). + 40.00					
TOTAL FEES ENCLOSED \$ 105.00					
a. <input checked="" type="checkbox"/> A check in the amount of \$ 105.00 to cover the above fees is enclosed.					
b. <input type="checkbox"/> Please charge my Deposit Account No. _____ in the amount of \$ _____ to cover the above fees. A duplicate copy of this check is enclosed.					
c. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 19-0733. A duplicate copy of this sheet is enclosed.					

<p>3. A copy of the International Application as filed (35 U.S.C. 371(c)(2))</p> <p>a. <input type="checkbox"/> is transmitted herewith (required only if not transmitted by the International Bureau)</p> <p>b. <input type="checkbox"/> is not required, as this application was filed in the United States Receiving Office (USRO)</p> <p>c. <input type="checkbox"/> has been transmitted by the International Bureau</p> <p>4. <input type="checkbox"/> A translation of the International Application into English (35 U.S.C. 371(c)(2))</p> <p>5. Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))</p> <p>a. <input type="checkbox"/> are transmitted herewith (required only if not transmitted by the International Bureau)</p> <p>b. <input type="checkbox"/> have been transmitted by the International Bureau</p> <p>6. <input type="checkbox"/> A translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3))</p> <p>7. <input type="checkbox"/> An oath or declaration of the inventor (35 U.S.C. 371(c)(4))</p> <p>8. <input type="checkbox"/> A translation of the Abstracts to the International Preliminary Examination Report under PCT Article 36(35 U.S.C. 371(c)(5))</p> <p>Other document(s) or information included:</p> <p>9. <input type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98.</p> <p>10. <input type="checkbox"/> An assignment document for recording.</p> <p>Please mail the recorded assignment document to:</p> <p>a. <input type="checkbox"/> the person whose signature, name & address appears at the bottom of this page.</p> <p>b. <input type="checkbox"/> the following:</p> <p>11. <input type="checkbox"/> Also submitted is a Verified Statement (Declaration) Claiming Small Entity Status.</p> <p>12. The above checked items are being transmitted</p> <p>a. <input type="checkbox"/> before the 18th month publication.</p> <p>b. <input type="checkbox"/> after publication and the Article 20 communication but before 20 months from the priority date.</p> <p>c. <input type="checkbox"/> after 20 months but before 22 months (surcharge and/or processing fee included).</p> <p>d. <input type="checkbox"/> after 22 months (surcharge and/or processing fee included).</p> <p>Note: Petition to revive (37 CFR 1.137(a) or (b)) is necessary if 35 U.S.C. 371 requirements submitted after 22 months and no proper demand for International Preliminary Examination was made by 18 months from the earliest claimed priority date.</p> <p>e. <input type="checkbox"/> by 30 months and a proper demand for International Preliminary Examination was made by the 18th month from the earliest claimed priority date.</p> <p>f. <input type="checkbox"/> after 30 months but before 32 months and a proper demand for International Preliminary Examination was made by the 18th month from the earliest claimed priority date (surcharge and/or processing fee included).</p> <p>g. <input type="checkbox"/> after 32 months (surcharge and/or processing fee included).</p> <p>Note: Petition to revive (37 CFR 1.137(a) or (b)) is necessary if 35 U.S.C. 371 requirements submitted after 32 months and a proper demand for International Preliminary Examination was made by 18 months from the earliest claimed priority date.</p> <p>13. At the time of transmittal, the time limit for amending claims under Article 19</p> <p>a. <input type="checkbox"/> has expired and no amendments were made.</p> <p>b. <input type="checkbox"/> has not yet expired.</p> <p>14. <input type="checkbox"/> Certain requirements under 35 U.S.C. 371 were previously submitted by the applicant on August 13, 1992</p>	<p>ATTORNEY'S REFERENCE NUMBER C 740502</p>
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NAME Edward T. McKee

ADDRESS Barnes, Bloch, McKee & Beckett

1801 G Street, N.W., Eleventh Floor

Washington, D.C. 20001-4597

SIGNATURE Edward T. McKee 17,335 REGISTRATION NUMBER

Form PTO 1200 (Rev. 5-80)

DeLeys et al
Appl. No. 10/822,871
Attny. Ref.: 2551-141
Amendment
September 23, 2010

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR

1.494 or 1.495 mailed January 6, 1993:

DeLeys et al
 Appl. No. 10/822,871
 Attny. Ref.: 2551-141
 Amendment
 September 23, 2010

WILLIAM W. BECKETT BANNER, BIRNEY, MC KIE & BECKETT 1001 G STREET, N.W., ELEVENTH FLOOR WASHINGTON, D.C. 20001-4597		UNITED STATES DESIGNATED/ELECTED OFFICE (DOEO/US) NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495	
		Date of Mailing 6 JAN 1993	
		File Reference 137,040,592	
IDENTIFICATION OF THE INTERNATIONAL APPLICATION			
International application Number	International filing date	Priority date claimed	
PCT/EP91/02469	13 DEC 1991	14 DEC 1990	
Applicant for DOEO/US DELEYS, ROBERT J. POLLET, DIRK MARTENS, GREGG AND VAN HELDENSTADT			
NOTIFICATION			
The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a <input checked="" type="checkbox"/> Designated Office, <input type="checkbox"/> Elected Office, has determined that the above identified international application has met the requirements of 35 U.S.C. 371 and 37 CFR <input checked="" type="checkbox"/> 1.494, <input type="checkbox"/> 1.495 and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.			
The United States Serial Number assigned to the application and the relevant dates are: <u>W/920286</u> <u>14 OCT 1992</u> <u>14 OCT 1992</u> U.S. NATIONAL SERIAL NO. 35 U.S.C. 102(e) DATE DATE OF RECEIPT 35 U.S.C. 371 REQUIREMENTS			
<input checked="" type="checkbox"/> A request for immediate examination under 35 U.S.C. 371 (f) was received on <u>14 OCT 1992</u> and the application will be examined in turn.			
<input type="checkbox"/> No request for immediate examination under 35 U.S.C. 371(f) was received. The application will not be processed or examined before the time limit set forth in either			
<input type="checkbox"/> PCT Article 23 (Chapter I of the PCT), or <input type="checkbox"/> PCT Article 40 (Chapter II of the PCT) whichever is applicable.			
UNITED STATES DESIGNATED/ELECTED OFFICE			
ADDRESS ONLY: COMMISSIONER OF PATENTS AND TRADEMARKS Box PCT, Attn: DOEO/US Washington, D.C. 20231		AUTHORIZED OFFICER <i>Monica Y. Doney</i>	

Form PCT/DO/EO/901 (U.S. Version) (April 1987)*

U.S. DEPARTMENT OF COMMERCE - PTO

DeLeys et al
Appl. No. 10/822,871
Attny. Ref.: 2551-141
Amendment
September 23, 2010

The Patent Office "DO/US Worksheet" acknowledging that that applicants have met the requirements of 35 U.S.C. 371 as of October 14, 1992:

U.S. APPLICATION NO.				DO/US WORKSHEET			
INTERNATIONAL APPLICATION NO.	PRIORITY DATE	CHAPTER	DUE DATE	20 MO	30 MO		
10/822,871	14 Dec 92			<input type="checkbox"/>	<input type="checkbox"/>		
INTERNATIONAL FILING DATE	FIRST NAMED APPLICANT FOR DO/US	TOTAL # APPLICANTS					
13 Dec 91	DeLeys, Robert J.						
LANGUAGE OF FILED APPLICATION	DATE OF RECEIPT OR MAILING	PUBLICATION					
English	PCT/IB/302	PUBL. NO. 2002/0154					
	11 Feb 92	PUBL. DATE 25 June 92					
	PCT/IB/304	LANGUAGE English					
	N/A	GAZETTE ISSUE					
	PCT/IB/310A	NOT PUBLISHED					
	10 July 92	<input type="checkbox"/> US ONLY DO/US					
	PCT/IB/310(PD) - PRIORITY DOC. COPY	<input type="checkbox"/> AS OF EP REQUEST					
	21 June 92						
	PCT/IB/311 - US ELECTED	REQUESTED DOCUMENT FROM IB THAT ARE IN THE FILE: <input type="checkbox"/> YES <input type="checkbox"/> NO					
	N/A	DATE REQUESTED					
	PCT/IB/409 - IPR RECEIVED	<input type="checkbox"/> PCT GAZETTE PAGE					
	N/A	<input type="checkbox"/> SEARCH REPORT					
	35 U.S.C. 371 - RECEIPT OF REQUEST	<input type="checkbox"/> OTHER					
	14 Oct 92	INFORMALITIES NOTED <input type="checkbox"/> YES <input type="checkbox"/> NO					
	DATE ASSIGNMENT RECEIVED	<input type="checkbox"/> OATH / DECLARATION					
	14 Oct 92	<input type="checkbox"/> OTHER					
	DATE PRELIMINARY AMENDMENT RECEIVED						
	N/A						
	DATE DISCLOSURE STATEMENT RECEIVED						
	N/A						
	DATE DO/EO/905 MAILED						
	28 Aug 92						
	DATE 905 RESPONSE RECEIVED						
	14 Oct 92						
	DATE DO/EO/905 MAILED - ACCEPTANCE NOTICE						
	11/1/93						
	DATE DO/EO/905 MAILED - ABANDONMENT NOTICE						
	N/A						
	DATE 35 U.S.C. 371 REQUIREMENTS MET						
	14 Oct 92						
OTHER RECEIPTS FROM THE APPLICANT AND DATE RECEIVED:							
<input type="checkbox"/> PCT/IB/311 - 149 DISCLOSURE DOC.							
<input type="checkbox"/> ASSIGNMENT							
<input type="checkbox"/> NEW CLAIMS FOR PRIORITY							
<input type="checkbox"/> OTHER							
ARTICLE 19 AMENDMENT REQUEST <input type="checkbox"/> YES <input type="checkbox"/> NO DESCRIPTION <input type="checkbox"/> YES <input type="checkbox"/> NO CLAIMS <input type="checkbox"/> YES <input type="checkbox"/> NO ABSTRACT <input type="checkbox"/> YES <input type="checkbox"/> NO WORDS IN DRAWING <input type="checkbox"/> YES <input type="checkbox"/> NO ARTICLE 19 AMDT. <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Cancelled <input type="checkbox"/> None							
ARTICLE 34 AMDT. <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Cancelled <input type="checkbox"/> None							
ARTICLE 36(3) AMDT. <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Cancelled <input type="checkbox"/> None							
COMPLETE AT <input type="checkbox"/> 20 MO <input type="checkbox"/> 30 MO. NATIONAL FEE <input type="checkbox"/> YES <input type="checkbox"/> NO OATH / DECL. <input type="checkbox"/> YES <input type="checkbox"/> NO TRANSLATION OF: REQUEST <input type="checkbox"/> YES <input type="checkbox"/> NO DESCRIPTION <input type="checkbox"/> YES <input type="checkbox"/> NO CLAIMS <input type="checkbox"/> YES <input type="checkbox"/> NO ABSTRACT <input type="checkbox"/> YES <input type="checkbox"/> NO WORDS IN DRAWING <input type="checkbox"/> YES <input type="checkbox"/> NO ARTICLE 19 AMDT. <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Cancelled <input type="checkbox"/> None							
COMPLETE AT <input type="checkbox"/> 22 MO <input type="checkbox"/> 32 MO. NATIONAL FEE <input type="checkbox"/> YES <input type="checkbox"/> NO OATH / DECL. <input type="checkbox"/> YES <input type="checkbox"/> NO TRANSLATION OF: REQUEST <input type="checkbox"/> YES <input type="checkbox"/> NO DESCRIPTION <input type="checkbox"/> YES <input type="checkbox"/> NO CLAIMS <input type="checkbox"/> YES <input type="checkbox"/> NO ABSTRACT <input type="checkbox"/> YES <input type="checkbox"/> NO WORDS IN DRAWING <input type="checkbox"/> YES <input type="checkbox"/> NO ARTICLE 19 AMDT. <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Cancelled <input type="checkbox"/> None							

Page 2 of the Office Action dated February 3, 1994 from the Examiner
acknowledging that the application was filed according to 35 U.S.C. § 371":

Serial No. 020206
Art Unit 1802

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It is noted that this case has been filed according to 35 U.S.C. § 371.

Restriction to one of the following inventions is required:

I. Claims 1-7 and 20-25, drawn to first HCV antigen and method of use, classified in Class 530, subclass 324, and Class 435, subclass 5.

II. Claims 8-14 and 20-25, drawn to second HCV antigen and method of use, classified in Class 530, subclass 324, and Class 435, subclass 5.

III. Claims 15-19, and 20-25, drawn to third HCV antigen and method of use, classified in Class 530, subclass 324, and Class 435, subclass 5.

The inventions are distinct, each from the other because of the following reasons:

The inventions of Group I, II, and III are distinct because the antigens do not share a common technical feature in that each is encoded by a different region of the HCV genome and the antigens do not share any amino acid sequences nor any epitopes.

Because these inventions are distinct for the reasons given above and because an undue burden would result if two or more of the groups were to be examined together, restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

A telephone call was made to Cynthia Poulke on January 4, 1994, to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Papers related to this application may be submitted to Group 180 by facsimile transmission. Papers should be faxed to Group 180 via the PTO Fax Center located in Crystal Mall 1. The faxing

Page 2 of the Office Action dated August 16, 1994 from the Examiner again acknowledging that the application was being treated as having been filed under 35 U.S.C. § 371:

Serial Number: 07/020286

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Art Unit: 1802

Applicant's election with traverse of Group III, Claims 15-19 and 20-25, in Paper No. 13 is acknowledged. The traversal is on the ground(s) that under 35 U.S.C. § 371, lack of unity requires that groups of claims must be identified which have no general inventive concept linking the claims of the groups with each other and that the originally filed claims all related to peptide sequences which are capable of mimicking proteins encoded by HCV and all can be used as reagents for screening blood for antibodies to HCV. This is not found persuasive because 35 U.S.C. § 371 provides for one product and one method of use; claims drawn to different peptides with different sequences and antigenic characteristic, originating from different viral domains and from different viral proteins, represent distinct products which have no common technical feature.

The requirement is still deemed proper and is therefore made FINAL.

Claims 26-32 are pending, original claims 1-25 having been cancelled in Paper No. 14.

The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an adequate written description of the invention and failing to teach how to make and/or use the invention.

The Patent Office is requested to correct their records consistent with the file history of application no. 07/920,286. A Corrected Filing Receipt is requested.

The undersigned is filing concurrently, a Rule 181 Petition directed to the Office of PCT Legal Administration, as suggested by Ms Tamara Graysay during a teleconference with the undersigned on September 23, 2010. Grant of the Petition is requested.

The specification has been revised in the first paragraph. No new matter has been added.

Claims 55, 59, 60, 62, 68-76 and 81-93 are pending. Claims 74-76 have been withdrawn from consideration. Claims 90-93 are not indicated as being withdrawn on pages 1 or 2 of the Office Action dated June 23, 2010. Page 1 of the Office Action states that claims 90-93 are rejected and page 3 of the Office Action states that claims 90-93 are rejected under Section 112, second paragraph. Rejoinder of the withdrawn claims and allowance of all of the claims are requested.

The claims have been amended, without prejudice.

Claim 71 has been amended to obviate the objection to same. Withdrawal of the objection is requested.

The Section 112, second paragraph, rejection of claims 55, 59, 60, 62, 68-76 and 81-93 is obviated by the above amendments. Withdrawal of the rejection is requested.

The claims are submitted to be in condition for allowance and a Notice to that effect is requested. The Examiner is requested to contact the undersigned, preferably by telephone, in the event anything further is required.

DeLeys et al
Appl. No. 10/822,871
Attny. Ref.: 2551-141
Amendment
September 23, 2010

Respectfully submitted,

NIXON & VANDERHYE P.C.

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